IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 17740 of 2007(J)

PETITIONER:

P.K.RATNAKARAN, S/O. BHASKARA PANICKER,
AGED 35 YEARS, VIDHYA NIVAS, B.C.ROAD,
BEYPORE, KOZHIKODE.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA

RESPONDENT:

THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, CALICUT.

BY GOVERNMENT PLEADER SRI. BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE CHALLAN DATED 13.2.2003 WITH RESPECT TO REMITTANCE OF RS.5,000/ TOWARDS REGULAR PERMIT FEE.

EXT.P2: TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.23516/2005 DATED 30.9.2005 OF THE HIGH COURT OF KERALA.

EXT.P3: TRUE COPY OF THE ORDER DATED 14.5.2007 IN CMP NO.4703 OF 2006 IN C.C.NO.73 OF 2005 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-V, KOZHIKODE.

EXT.P4: TRUE COPY OF THE DEPOSITION OF BABU LIJIT AS PW1 IN C.C.NO.73/2005.

EXT.P5: TRUE COPY OF THE FINAL REPORT IN C.C.NO.404/2004 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-V, KOZHIKODE.

EXT.P6: TRUE COPY OF THE PROCEEDINGS DATED 25.4.2007.

EXT.P7: TRUE COPY OF THE ORDER DATED 29.6.2007.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO. 17740 OF 2007

DATED THIS THE 3rd DAY OF AUGUST, 2007

JUDGMENT

The petitioner applied for renewal of his regular permit. The respondent insisted on production of NOC from the Financier. The petitioner contends that the vehicle cannot be regarded as hypotheticated to anybody in view of Ext.P3 judgment of the Criminal Court and Ext.P4 deposition of the person who has claimed such hypothecation and therefore, there is no question of producing NOC at all. The petitioner, therefore, seeks the following reliefs.

> " a) issue a writ of mandamus or other appropriate writ order or direction commanding the respondent to consider the application for renewal of regular permit;
>
> b) to declare that the petitioner is entitled to get the permit renewed without insisting for NOC in view of Ext.P3 & Ext.P4.
>
> c) to direct the respondent by the issue of a writ of mandamus or any other appropriate writ, order or direction to cancel the hypothecation agreement endorsed in the R.C. Book of the petitioner in view of Exts.P3 and P4".

2. The learned Government pleader submits that in so far as the application for renewal of permit was rejected by Ext.P6, the remedy available to the petitioner lies in filing an appeal before the

State Transport Appellate Tribunal as provided under the Motor Vehicles Act. I find merit in this contention. Therefore, without prejudice to the right of the petitioner to challenge Ext.P6 in an appeal before the STAT, this writ petition is dismissed.

S. SIRI JAGAN, JUDGE

Acd